

# SECURITY DEPOSITS

A security deposit is any money, including a pet cleaning deposit or payment of the last month's rent, taken by a landlord, in advance of the time it is due, to protect the landlord against damage caused by tenants, guests, or invitees, non-payment of rent, and/or damages incurred by the landlord if the tenant breaches the lease. The total amount of the security deposit cannot exceed the equivalent of two months' rent. If a landlord charges more than this amount, the tenant may recover up to three times the excess amount charged, plus reasonable attorney's fees.

The landlord must give the tenant a written receipt for payment of a security deposit. The receipt must inform the tenant of his/her rights under Section 8-203.1 of the Real Property Article, Annotated Code of Maryland, 1999, as amended (*See Maryland Security Deposit Law below*). The receipt may be incorporated into the written lease agreement. If the landlord fails to provide a receipt for the security deposit, the landlord is liable to the tenant for a \$25.00 penalty. The landlord is required to retain a copy of the security deposit receipt for a period of two years after the end of the tenancy.

The receipt for payment of the security deposit must contain a notice informing the tenant of the following:

- The right to have the rental property inspected by the landlord in the tenant's presence for the purpose of making a written list of damages that exist at the beginning of the tenancy. This request for an inspection must be done by *certified mail* within 15 days of the tenant's occupancy;
- The right to be present for a final walk-through inspection of the rental property if the tenant notifies the landlord by *certified mail* at least 15 days before the date of the intended move. This notice must contain the intended move-out date and the tenant's new address. The landlord is obligated to conduct this inspection within five days before or after the tenant's intended move out date. The landlord is obligated to notify the tenant in writing by *certified mail* of the date of the inspection;
- The tenant's right to receive, within 45 days after the termination of the tenancy, by first class mail, delivered to the last known address of the tenant, a written list of the charges against the security deposit claimed by the landlord along with the actual costs incurred to repair any damages;
- The landlord's obligation to return any unused portion of the security deposit by first class mail, to the tenant's last known address, within 45 days after the termination of the tenancy; and
- A statement that the landlord's failure to comply with the security deposit law may result in the landlord's being liable to the tenant for a penalty of up to three times the amount withheld from the security deposit plus reasonable attorney's fees.

It is strongly recommended that both parties conduct an inspection of the rental property prior to move-in and compile a written list of any damages. This inspection will help to document

pre-existing damages and may prevent misunderstandings regarding who is responsible for damage at the time of move out (*See Appendix IV, Inspection Report*).

## MAINTENANCE OF SECURITY DEPOSITS

The landlord must place the security deposit in a federally insured financial institution that does business in the State of Maryland. The security deposit must be maintained in a branch of the financial institution located in the state. The account is to be devoted exclusively to security deposits and must bear interest. The landlord may deposit the security deposit in insured certificates of deposit or in securities issued by the federal government or the State of Maryland. The deposit must be made within 30 days of receipt and maintained throughout the tenancy.

## INTEREST ON THE SECURITY DEPOSIT

Security deposits began earning interest effective July 1, 1972. All security deposits received between July 1, 1972, and June 30, 1980, accrued interest at a rate of 3% per year. All security deposits received between July 1, 1980 and September 30, 2004, accrue interest at a rate of 4% simple interest per year. Effective October 1, 2004, all security deposits received or held on or after that date will accrue interest at a rate of 3% simple interest per year.

### Interest on a security deposit:

- Is only required on deposits of \$50 or more.
- As of October 1, 2004, is 3% simple interest per year, which accrues in six month intervals as follows:

0 - 5 months = 0%	18 - 23 months = 4.5%
6 - 11 months = 1.5%	24 - 29 months = 6%
12 - 17 months = 3%	30 - 35 months = 7.5%, etc.

Example: Deposit held 10/01/03—9/30/05 accrues as follows:

10-01-03—9/30/04	4%		
10/01/04—9/30/05	3%	Total	7%

A \$500.00 security deposit held for 24 months (after 10/01/04) accrues 6% interest:  $\$500 \times .06 = \$30$ , Total security deposit plus interest = \$530.00.

## INSPECTION

When a tenant vacates a rental property, the landlord is strongly encouraged to inspect the property for damage. If a tenant wishes to be present for this inspection, the tenant must send a written notice to the landlord. The notice must:

- Be sent by certified mail;
- Be sent to the landlord at least 15 days before the move-out date;
- State the move-out date; and,
- Include the tenant's new address.

The landlord must respond to the tenant in writing, via certified mail, advising the tenant of the date and time of the inspection. The landlord must schedule the inspection within 5 days before, or 5 days after, the move-out date given by the tenant.

It is strongly recommended that tenants exercise this right so that both parties are present when the inspection takes place to determine if any damage beyond normal wear and tear has occurred. This inspection will create a written inspection report, detailing the condition of the property. We recommend that both parties take photographs of the rental property as well. Prepare this inspection report even if no damage is noted. The inspection report is to be signed by both parties (*See Appendix IV- Inspection Report*).

## RETURN OF THE SECURITY DEPOSIT

The most common disagreement between landlords and tenants involves the refund of the tenant's security deposit after the end of the tenancy. State law specifies procedures that the landlord must follow for refunding, using and accounting for the security deposit.

- If no damage is claimed by the landlord, the security deposit, plus any accrued interest, must be returned to the tenant, at his/her last known address, within 45 days after the termination of the tenancy.
- A landlord may withhold all or part of the security deposit, for unpaid rent, actual cost incurred to repair damage in excess of normal wear and tear, to the property caused by the tenant, or for other actual costs incurred by the landlord if the tenant has breached the lease agreement.
- If the landlord withholds any portion of the security deposit, the landlord must send a written notice of the deductions to the tenant. This itemized list must:
  - ▶ Be sent by *first class* mail to the last known address of the tenant. If the tenant does not provide a forwarding address, the address of the rental property is to be used;
  - ▶ Be sent within 45 days from the end of the tenancy; and
  - ▶ Contain a written list of the damages claimed and a statement of the costs actually incurred, including damages incurred from breach of lease.

- If the landlord fails to comply with these requirements, the landlord forfeits the right to retain any portion of the security deposit.
- In the event a rental property is sold while a tenant still occupies it, any security deposits taken are transferred to the new owner and he/she must comply with all of the requirements regarding the return of the security deposit.
- If a tenant breaches the lease agreement by moving prematurely, he/she must write to the landlord and request his security deposit within 45 days after vacating the rental property in order to preserve his/her rights under the security deposit law. Absent a written request, the landlord is not obligated to comply with the 45 day timeline.

**MARYLAND SECURITY DEPOSIT LAW**  
Annotated Code of Maryland, Real Property Article, 1999 as amended

**§ 8-203. Security deposits.**

(a) *Definitions.* - (1) In this section the following words have the meanings indicated.

(2) "Landlord" mean a landlord or a prospective landlord.

(3) "Security deposit" means any payment of money, including payment of the last month's rent in advance of the time it is due, given to a landlord by a tenant in order to protect the landlord against nonpayment of rent, damage due to breach of lease, or damage to the leased premises, common areas, major appliances, and furnishings.

(4) "Tenant" means a tenant or a prospective tenant.

(b) *Maximum amount.*— (1) A landlord may not impose a security deposit in excess of the equivalent of two months' rent per rental property, regardless of the number of tenants.

(2) If a landlord charges more than the equivalent of two months' rent per rental property as a security deposit, the tenant may recover up to threefold the extra amount charged, plus reasonable attorney's fees.

(3) An action under this section may be brought at any time during the tenancy or within two years after its termination.

(c) *Receipt.*—The landlord shall give the tenant a receipt for the security deposit as specified in Section 8-203.1 of this subtitle. The receipt may be included in a written lease.

(d) *Maintenance of accounts or certificates of deposit in financial institutions; sale or transfer of landlord's interest.*—(1)(i) The landlord shall maintain all security deposits in federally insured financial institutions, as defined in §1-1-1 of the Financial Institutions Article, which do business in the State.

(ii) Security deposit accounts shall be maintained in branches of the financial institutions which are located within the State and the accounts shall be devoted exclusively to security deposits and bear interest.

(iii) A security deposit shall be deposited in an account within 30 days after the landlord receives it.

(iv) The aggregate amount of the accounts shall be sufficient in amount to equal all security deposits for which the landlord is liable

(2)(i) In lieu of the accounts described in paragraph (1) of this subsection, the landlord may hold the security deposits in insured certificates of deposit at branches of federally insured financial institutions, as defined in §1-101 of the Financial Institutions Article, located in the state or in securities issued by the Federal government or the State of Maryland.

(ii) In the aggregate certificates of deposit or securities shall be sufficient in amount to equal all security deposits for which the landlord is liable.

(3) In the event of sale or transfer of the landlord's interest in the leased premises, including receivership or bankruptcy- the landlord or the landlord's estate, but not the managing agent or court appointed receiver, shall remain liable to the tenant and the transferee for maintenance of the security deposit as required by law, and the withholding and return of security deposit plus interest as required by law, as to all or any portion of the security deposit that the landlord fails to deliver to the transferee together with an accounting showing the amount and date of the original deposit, the records of the interest rates applicable to the security deposit, if any, the name and last known address of the tenant from whom or on whose behalf the deposit was received.

(4) Any successor in interest is liable to the tenant for failure to return the security deposit, together with interest, as provided in this section.

(e) *Return of deposit to tenant; interest.*—(1) Within 45 days after the end of the tenancy, the landlord shall return the security deposit to the tenant together with simple interest which has accrued in the amount of 3 percent per annum, less any damages rightfully withheld.

(2) Interest shall accrue at six-month intervals from the day the tenant gives the landlord the security deposit. Interest is not compounded.

(3) Interest shall be payable only on security deposits of \$50 or more.

(4) If the landlord, without a reasonable basis, fails to return any part of the security deposit, plus accrued interest, within 45 days after the termination of the tenancy, the tenant has an action of up to threefold of the withheld amount, plus reasonable attorney's fees.

(f) *Withholding of deposit—Generally; tenant's right to be present at inspection of premises.*—

(1)(i) The security deposit, or any portion thereof, may be withheld for unpaid rent, damage due to breach of lease or for damage by the tenant or the tenant's family, agents, employees, guests or invitees in excess of ordinary wear and tear to the leased premises, common areas, major appliances, and furnishings owned by the landlord.

(ii) The tenant has the right to be present when the landlord or the landlord's agent inspects the premises in order to determine if any damage was done to the premises, if the tenant notifies the landlord by mail of the tenant's intention to move, the date of moving, and the tenant's new address.

(iii) The notice to be furnished by the tenant to the landlord shall be mailed at least 15 days prior to the date of moving.

(iv) Upon receipt of the notice, the landlord shall notify the tenant by mail of the time and date when the premises are to be inspected.

(v) The date of inspection shall occur within five days before or five days after the date of moving as designated in the tenant's notice.

(vi) The tenant shall be advised of the tenant's rights under this subsection in writing at the time of the tenant's payment of the security deposit.

(vii) Failure by the landlord to comply with this requirement forfeits the right of the landlord to withhold any part of the security deposit for damages.

(2) The security deposit is not liquidated damages and may not be forfeited to the landlord for breach of the rental agreement, except in the amount that the landlord is actually damaged by the breach.

(3) In calculating damages for lost future rents any amount of rents received by the landlord for the premises during the remainder if any, of the tenant's term, shall reduce the damages by a like amount.

(g) *Same—Notice to tenant.*—(1) If any portion of the security deposit is withheld, the landlord shall present by first-class mail directed to the last known address of the tenant, within 45 days after the termination of the tenancy, a written list of the damages claimed under subsection (f) (1) of this section together with a statement of the cost actually incurred.

(2) If the landlord fails to comply with this requirement, the landlord forfeits the right to withhold any part of the security deposit for damages.

(h) *Tenant ejected or evicted or abandoning premises.*—(1) The provisions of subsections (e)(1) and (4) and (g) (1) and (2) of this section are inapplicable to a tenant who has been evicted or ejected for breach of a condition or covenant of a lease prior to the termination of the tenancy or who has abandoned the premises prior to the termination of the tenancy.

(2)(i) A tenant specified in paragraph (1) of this subsection may demand return of the security deposit by giving written notice by first-class mail to the landlord within 45 days of being evicted or ejected or of abandoning the premises.

(ii) The notice shall specify the tenant's new address.

(iii) The landlord, within 45 days of receipt of such notice, shall present, by first-class mail to the tenant, a written list of the damages claimed under subsection (f)(1) of this section together with a statement of the costs actually incurred and shall return to the tenant the security deposit together with simple interest which has accrued in the amount of 3 percent per annum, less any damages rightfully withheld.

(3)(i) If a landlord fails to send the list of damages required by paragraph (2) of this subsection, the right to withhold any part of the security deposit for damages is forfeited.

(ii) If a landlord fails to return the security deposit as required by paragraph (2) of this subsection, the tenant has an action of up to threefold of the withheld amount, plus reasonable attorney's fees.

(4) Except to the extent specified, this subsection may not be interpreted to alter the landlord's duties under subsections (e) and (g) of this section.

(i) *No waiver of section's provisions.*—No provision of this section may be waived in any lease.

## § 8-203.1 Security deposit receipt

(a) *Contents.*—A receipt for a security deposit shall notify the tenant of the following: (1) The right to have the rental property inspected by the landlord in the tenant's presence for the purpose of making a written list of damages that exist at the commencement of the tenancy if the tenant so requests by certified mail within 15 days of the tenant's occupancy;

(2) The right to be present when the landlord inspects the premises at the end of the tenancy in order to determine if any damage was done to the premises if the tenant notifies the landlord by certified mail at least 15 days prior to the date of the tenant's intended move, of the tenant's intention to move, the date of moving, and the tenant's new address;

(3) The landlord's obligation to conduct the inspection within 5 days before or after the tenant's stated date of intended moving;

(4) The landlord's obligation to notify the tenant in writing of the date of the inspection;

(5) The tenant's right to receive, by first class mail, delivered to the last known address of the tenant, a written list of the charges against the security deposit claimed by the landlord and the actual costs, within 45 days after the termination of the tenancy;

(6) The obligation of the landlord to return any unused portion of the security deposit, by first class mail, addressed to the tenant's last known address within 45 days after the termination of the tenancy; and

(7) A statement that failure of the landlord to comply with the security deposit law may result in the landlord being liable to the tenant for a penalty of up to 3 times the security deposit withheld, plus reasonable attorney's fees.

(b) *Retention for 2 years.*—The landlord shall retain a copy of the receipt for a period of 2 years after the termination of the tenancy, abandonment of the premises, or eviction of the tenant, as the case may be.

(c) *Landlord penalty.*—The landlord shall be liable to the tenant in the sum of \$25 if the landlord fails to provide a written receipt for the security deposit.